



DRINKING WATER AND RADIOLOGICAL PROTECTION DIVISION *POLICY AND PROCEDURES*

NUMBER:	DWRP-03-008		
SUBJECT:	MONETARY PENALTIES FOR CONSENT AGREEMENTS USED IN WELL DRILLING CONTRACTOR REGISTRATION ADMINISTRATIVE ACTIONS		
EFFECTIVE DATE:	AUGUST 1, 1998	PAGE:	1 OF 5

ISSUE:

Consent agreements are used to resolve administrative registration actions taken by the Department of Environmental Quality (DEQ) against well drilling contractors or pump installers. A consent agreement may include payment of a monetary penalty for violation of Part 127, 1978 PA 368, as amended, being MCL 333.12701 et. seq. of the Michigan Compiled Laws, (hereinafter Athe Act) or administrative rules adopted thereunder, being R 325.1601 to R 325.1781 of the Michigan Administrative Code (hereinafter Athe Rules), along with other provisions.

DEFINITIONS:

Consent Agreement - an enforceable contract negotiated between a registrant and the DEQ or among the registrant, DEQ, local health department, and other parties, which contains terms and conditions intended to achieve compliance with the Act and Rules. A consent agreement may be developed at either the informal conference or formal hearing stage of the administrative proceedings.

Monetary Penalty - payment by a registrant to: (1) encourage future compliance with the Act and Rules and (2) offset possible economic gain accumulated by past noncompliance.

Registrant - Person registered pursuant to the provisions of Section 333.12704 of the Act.

POLICY:

The monetary penalties established in this policy are categorized based on the degree of hazard to public health or ground water resources. The monetary penalty amount increases with the degree of hazard. Monetary penalties will not be applied to code violations which occurred before April 21, 1994 (effective date of the revised Groundwater Quality Control Rules). For violations occurring after April 21, 1994, monetary penalties included in consent agreements shall be based on the following schedule:

I. The penalty for the following violations shall be \$250.00 per occurrence:

<u>Rule Violated</u>	<u>Description of Violation</u>
R 325.1661	Failure of well drilling contractor to notify water supply owner of owner's responsibility to collect water sample.
R 325.1675(1)	Failure to submit water well record within 60 days of well completion.

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| R 325.1675(2) | Failure to record geologic material types and thicknesses penetrated on a record available for inspection at well drilling site. |
| R 325.1675(3) | Failure to file abandoned well or dry hole plugging report. |
| R 325.1676(1) | Failure to submit pump installation record within 60 days of installation of pump upon a new well. |
| R 325.1708 | Failure of registered contractor to carry copy of registration certificate. |
| R 325.1721 | Failure to carry drilling machine registration on drilling machine. |
| R 325.1722 | Failure to provide registration number, business name, and business address on both sides of well drilling machines and service vehicles. |

II. The penalty for the following violations shall be \$500.00 per occurrence:

<u>Rule Violated</u>	<u>Description of Violation</u>
R 325.1611	Failure to upgrade water system when extensive changes or repairs are made to system constructed before effective date of amendatory rules.
R 325.1612	Failure to comply with applicable laws, regulations, ordinances, and codes.
R 325.1621(2)	Well not adequate in size, design, and development for the intended use.
R 325.1639(1)	Well pumping sand at pumping rate of permanent pump.
R 325.1639(5)	Failure to pump a new, repaired, or reconditioned well to waste at a rate equal to or exceeding pumping rate of permanent pump, until water is as clear as reasonably possible considering the ground water conditions in the area.
R 325.1640(2)	Use of water well component that does not comply with applicable standards or specifications.
R 325.1655(2)	Failure to use approved water service line material.
R 325.1656	Failure to install pressure relief valve if pump is capable of developing pressure greater than rated pressure tank operating pressure.
R 325.1657	Failure to provide casing vent where required.
R 325.1658	Failure to install sampling faucet, in convenient location, at least 8 inches above floor.

III. The penalty for the following violations shall be \$750.00 per occurrence:

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<u>Rule Violated</u>	<u>Description of Violation</u>
R 325.1622	Failure to maintain minimum horizontal isolation distances from contamination sources when constructing well.
R 325.1625	Well located in area subject to flooding.
R 325.1626-1632	Improper well casing materials or joints, or improper casing installation methods used.
R 325.1633a-1637	Failure to grout annular space surrounding casing or improper grouting materials or methods used.
R 325.1638	Failure to confine flow to within casing or failure to prevent or reduce continuous discharges from within well casing.
R 325.1639(2-3)	Use of lead-bearing well components or unapproved drilling fluids or additives.
R 325.1639(6)	Failure to provide temporary capping of a well until pumping equipment is installed.
R 325.1639(8)	Obtaining drilling water from unapproved source, failure to provide at least 10 ppm free residual chlorine in drilling water at time of use, or failure to convey drilling water in clean container.
R 325.1639(9)	Failure to notify well owner or building occupants or make system inoperable when treating water system with chlorine or well rehabilitation chemicals.
R 325.1641-1642	Unapproved abovegrade or belowground connection to well casing.
R 325.1654	Failure to protect buried suction line.
R 325.1655	Improper check valve installation resulting in failure to keep water service line between well and pressure tank under positive pressure.
R 325.1657a	Failure to provide weathertight, vermin-proof, tightly secured well cap.
R 325.1661	Failure to disinfect well or pumping equipment.
R 325.1662-1669	Failure to plug abandoned well or dry hole, or use of unapproved plugging materials or methods.
R 325.1674a(1)	Cross-connection between a water supply that is in compliance with rules and another water supply that is not.

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R 325.1674a(2) Installation of a yard hydrant with buried stop-and-waste valve on water service line or branch of the water service line, or draining stop-and-waste valve into well.

IV. *The penalty for the following violations shall be \$1,000.00 per occurrence.*

- (a) Advertising or making other public representations as a water well drilling contractor or pump installer, without having first obtained a certificate of registration from the department, or violation of other provisions of R 325.1711.
- (b) Engaging in the business of well drilling or pump installing without having first obtained a certificate of registration pursuant to the provisions of Section 12704, 1978 PA 368, as amended.
- (c) A registered pump installer performing well drilling activities as defined in R 325.1606(4).
- (d) Providing false or misleading information on the following documents:
 - 1. The water well record required pursuant to the provisions of Section 12707 of 1978 PA 368, as amended, and R 325.1675.
 - 2. The proof of work experience documents required pursuant to the provisions of R 325.1701a.
 - 3. The registration application form required pursuant to the provisions of Section 12704 of 1978 PA 368, as amended.
- (e) Failure to comply with correction order issued by a local health department or the Michigan Department of Environmental Quality pursuant to the provisions of Section 12709 of 1978 PA 368, as amended.
- (f) Failure to supervise the construction of water wells or the installation of pumps pursuant to the provisions of Section 333.12701(1)(e) of 1978 PA 368, as amended.

Stipulations for Methods of Payment of Monetary Penalty:

When a monetary penalty is contained within a consent agreement, the method of payment and deadline for payment of the penalty shall be clearly stated in the agreement. Payment may be made in a lump sum, by installments, or other method agreed upon by the parties. To minimize record keeping by the department, the deadline for payment should not extend beyond 24 months.

The consent agreement shall state the following:

- (1) Payment shall be made by certified cashier's check or personal check,
- (2) The name of the agency the check is to be made payable to,
- (3) Payments are to be sent to the DEQ, Well Construction Unit,

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- (4) Mailing address of DEQ, Well Construction Unit, and
- (5) The deadline for each payment, if installment payments are arranged, or deadline for a lump sum payment.

Payment of Penalty to Local Health Departments:

Where a local health department has conducted the investigation or has assisted the DEQ in the investigation which resulted in the administrative action, the DEQ may propose in the consent agreement that a portion or all of the monetary penalty be paid to the local health department. Where the local health department was not involved in the investigation, the penalty shall be paid to the state of Michigan. If more than one local health department participated in the investigation, the consent agreement shall designate the amount of the penalty to be paid to each agency.

ALTERNATIVE TO MONETARY PENALTY:

The DEQ may consider, in lieu of a monetary penalty, an alternate means to encourage the registrant to voluntarily comply with the Act and Rules. The registrant shall submit to the DEQ a written proposal describing the alternate means. The department may approve proposals that will (1) benefit the community, (2) protect ground water resources and/or public health, (3) assure future compliance with applicable laws and regulations, and (4) offset any economic gain attained through past noncompliance.

PROCEDURE:

Responsibility

MDEQ Well Construction Unit

Action

Applies this policy to monetary penalties contained in Consent Agreements

APPROVED: _____ DATE: _____
Flint C. Watt, P.E., Chief
Drinking Water and Radiological Protection Division